



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,223	10/22/2001	Gerhard Mueller	30051/37886	4981

4743 7590 01/02/2003

MARSHALL, GERSTEIN & BORUN
6300 SEARS TOWER
233 SOUTH WACKER
CHICAGO, IL 60606-6357

EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
----------	--------------

3643

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,223

Applicant(s)

MUELLER ET AL.

Examiner

David J Parsley

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7-9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

Preliminary Amendment

1. Applicant's preliminary amendment (paper no. 6) dated 10-22-01 has been entered and considered.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains legal phraseology in particular the word "said", it is comprised of two paragraphs and it begins with a statement, which can be implied. Correction is required. See MPEP § 608.01(b).

Art Unit: 3643

4. The disclosure is objected to because of the following informalities: on page 1 in the 4th paragraph a German word is used and it should be in English.

On page 2 of the preliminary amendment on the 1st line under the Detailed Description of the Invention heading, the endless belt reference numeral "61" which is used is not in the drawing figure.

Appropriate correction is required.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the conveyor and the suspension means being connected to the control means is not disclosed in the specification as seen in claims 9 and 21.

Drawings

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 61. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 3643

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 15 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitations "said conveyor belt" and "said transfer unit" in referring to sausage producing device. There is insufficient antecedent basis for these limitations in the claim.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to what is meant by each n-th closure and (n E 1N). It is unclear to how many closures applicant is claiming.

Claim 21 recites the limitations "said transfer unit" and "said suspension unit" in referring to the sausage producing device. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3/1, 4-5, 8, 10, 12-14, 16-17 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,766,713 to Evans.

Referring to claim 1, Evans discloses a sausage-producing device comprising in combination a stuffing unit – see column 5 lines 29-31, with a charging pipe – at 22 and 30 for stuffing sausage skins, a length-dimensioning unit – at 26 for controlled removal of the stuffed sausage skins, and a clip module – the device as seen in figure 2 which supports and powers the clippers – 33 and 35, for closing the stuffed sausage skins arranged directly after the length-dimensioning unit – 26 when seen in the direction of transport of the stuffed sausage skins – see for example figures 1-14 and columns 1-12.

Referring to claim 3/1, Evans discloses the clip module includes a cutter – see for example column 6 lines 5-10.

Referring to claim 4, Evans discloses the clip module includes a loop former – 48.

Referring to claim 5, Evans discloses when seen in the direction of transport of the stuffed sausage skins, the clip module is followed by a transfer unit – 56.

Referring to claim 8, Evans discloses the stuffing unit, the length-dimensioning unit and the clip module are connected via control lines to a control means for the sausage-producing device so that the functions of the length-dimensioning unit and of the clip module can be synchronized – see for example column 5 lines 51-61.

Referring to claim 10, Evans discloses a method of producing sausages comprising the steps of stuffing sausage skins via a charging pipe – at 22 and 30, transporting the stuffed sausage skins away in a controlled manner via a length-dimensioning unit – 26, and closing the

Art Unit: 3643

stuffed sausage skins by a clip module – at 34 directly after the length-dimensioning unit – 26 – see for example figures 1-14 and columns 1-12.

Referring to claim 12, Evans discloses controlling the clip module via a control means in such a way that the stuffed sausage skins are closed synchronously with the stuffing of the sausage skins – see for example column 5 lines 51-61.

Referring to claim 13, Evans discloses closing the stuffed sausage skins with the clip module at two juxtaposed points – see for example figure 2 and columns 5-13.

Referring to claim 14, Evans discloses cutting through the stuffed sausage skins with the clip module between the two points – see for example figure 2 and columns 5-13.

Referring to claim 16, Evans discloses closing the stuffed sausage skins by the clip module twice at the twist-off point – see for example figure 2 and columns 5-13.

Referring to claim 17, Evans discloses advancing the stuffed sausage skins, which have been closed by the clip module to a transfer unit – at 56.

Referring to claim 19, Evans discloses causing the functions of the clip module to take place in synchronism with the functions of the length-dimensioning unit and the transfer unit – see for example column 5 lines 51-61.

Referring to claim 20, Evans discloses the clip module is arranged at the rear end of the length-dimensioning unit, when seen in the direction of transport of the sausages – see for example figures 1-2.

Art Unit: 3643

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3/2, 6-7, 11, 15, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans as applied to claims 1, 5, 10 and 17 above, and further in view of U.S. Patent No. 5,699,723 to Schliesser et al.

Referring to claims 2 and 11, Evans does not disclose the charging pipe has associated therewith a twist-off unit. Schliesser does disclose the charging pipe – 3 has associated therewith a twist-off unit – 2. Therefore it would have been obvious to one of ordinary skill in the art to take the sausage-producing device of Evans and add the twist-off unit of Schliesser, so as to easily facilitate the clipping of the ends of the sausage links.

Referring to claim 3/2, Evans as modified by Schliesser et al. further discloses the clip module includes a cutter – see for example column 6 lines 5-10 of Evans.

Referring to claims 6 and 18, Evans does not disclose when seen in the direction of transport of the stuffed sausage skins, the transfer unit is followed by a conveyor belt. Schliesser et al. does disclose when seen in the direction of transport of the stuffed sausage skins, the transfer unit – 7-8 is followed by a conveyor belt – 14 – see for example figure 1 and column 2. Therefore it would have been obvious to one of ordinary skill in the art to take the sausage producing apparatus or method of Evans and add the conveyor belt following the transfer unit of Schliesser et al., so as to allow for the sausage skins to be easily and automatically transported for further processing.

Referring to claims 7 and 22, Evans does not disclose when seen in the direction of transport of the stuffed sausage skins, the transfer unit is followed by a suspension unit. Schliesser et al. does disclose when seen in the direction of transport of the stuffed sausage skins, the transfer unit – 7-8 is followed by a suspension unit – 6 – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the sausage producing device or method of Evans and add the suspension unit following the transfer unit of Schliesser et al., so as to allow for the sausage skins to be easily and automatically transported at a height easily accessed by the user for further processing.

Referring to claim 9, Evans further discloses the transfer unit – 56 is connected to the control means for the sausage-producing device via control lines so as to synchronize the functions of the transfer unit with the functions of the stuffing unit, the length-dimensioning unit and the clip module – see for example columns 1-13. Evans does not disclose the conveyor belt is connected to the control means for synchronization with the stuffing unit, length-dimensioning unit and the clip module. Schliesser et al. does disclose the conveyor belt – 14 is connected to the controls – see for example columns 1-3 and it is inherent that the conveyor belt moves in synchronization with the stuffing unit, length dimensioning unit and the clip module since it is connected to these devices and is used to transport the sausages in relation to these devices. Therefore it would have been obvious to one of ordinary skill in the art to take the sausage producing device of Evans and add the conveyor belt connected to the controls for synchronization with the other components of the device of Schliesser et al., so as to make the device operate as quickly and efficiently as possible thus allowing a higher number of sausages to be produced in a shorter amount of time.

Referring to claim 21, Evans further discloses the transfer unit – 56 is connected to the control means for the sausage-producing device via control lines so as to synchronize the functions of the transfer unit with the functions of the stuffing unit, the length-dimensioning unit and the clip module – see for example columns 1-13. Evans does not disclose the suspension unit is connected to the control means for synchronization with the stuffing unit, length-dimensioning unit and the clip module. Schliesser et al. does disclose the suspension unit – at 6 is connected to the controls – see for example columns 1-3 and it is inherent that the conveyor belt moves in synchronization with the stuffing unit, length dimensioning unit and the clip module since it is connected to these devices and is used to transport the sausages in relation to these devices. Therefore it would have been obvious to one of ordinary skill in the art to take the sausage producing device of Evans and add the suspension unit connected to the controls for synchronization with the other components of the device of Schliesser et al., so as to make the device operate as quickly and efficiently as possible thus allowing a higher number of sausages to be produced in a shorter amount of time.

Referring to claim 15, Evans further discloses the step of cutting through is effected after each first closure, so as to obtain a single sausage. Evans does not disclose the step of cutting through is effected after each n-th closure so as to obtain chains of sausages, which comprise a specific number of sausages. Muller et al. does disclose the step of cutting through is effected after each n-th closure so as to obtain chains of sausages which comprise a specific number of sausages – see for example figures 1-8 and columns 1-8. Therefore it would have been obvious to one of ordinary skill in the art to take the method of producing sausages of Evans and add the

step of cutting after each n-th closure of Muller et al., so as to make the device adjustable and adaptable for many different required lengths of the sausage chain.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to sausage producing devices in general:

U.S. Pat. No. 3,191,222 to Townsend – shows stuffing unit and transfer unit

U.S. Pat. No. 3,694,853 to Greider – shows transfer unit and suspension unit

U.S. Pat. No. 4,129,923 to Hoegger – shows chain of sausages on suspension unit

U.S. Pat. No. 4,539,796 to Nakamura et al. – shows controllable transfer unit

U.S. Pat. No. 4,660,254 to Kollross – shows stuffing unit

U.S. Pat. No. 4,847,951 to Kollross – shows clipping module and cutting blade

U.S. Pat. No. 4,940,597 to Townsend – shows transfer unit and suspension unit

U.S. Pat. No. 5,013,279 to Southworth – shows stuffing unit and transfer unit

U.S. Pat. No. 5,183,433 to Townsend et al. – shows suspension unit

U.S. Pat. No. 5,197,915 to Nakamura et al. – shows controllable suspension unit

U.S. Pat. No. 5,217,404 to Lanfrey – shows length-dimensioning unit

U.S. Pat. No. 5,775,985 to Stanley et al. – shows clip module

U.S. Pat. No. 5,993,868 to Townsend – shows transfer unit and suspension unit

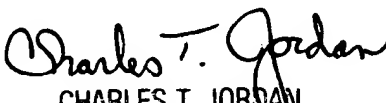
U.S. Pat. No. 6,045,445 to Hummel et al. – shows length-dimensioning unit

U.S. Pat. No. 6,146,261 to Bienert et al. – shows clip module

JP Pat. No. 2-167023 to Oka et al. – shows controllable transfer unit

11. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.


CHARLES T. JORDAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600